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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,589	04/25/2001	John Anthony Bruckner	041892.0211	8739
7590	05/20/2005		EXAMINER	
Ted R. Rittmaster FOLEY & LARDNER Suite 3500 2029 Century Park East Los Angeles, CA 90067-3021			YIMAM, HARUN M	
			ART UNIT	PAPER NUMBER
			2611	
DATE MAILED: 05/20/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/843,589	BRUCKNER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Harun M. Yimam	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 05/18/2001.

2a) This action is **FINAL**.                                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-12 and 19-29 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-12 and 19-29 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 05/29/2001.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because lines 1 and 2 contain the phrase "is disclosed" which should be removed. Correction is required. See MPEP § 608.01(b).

### ***Claim Objections***

2. Claim 4 is objected to because of the following informalities:

The phrase "does not extend" in line 4 should be changed to "do not extend".

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 9, 19-21, and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Andrade (US 2002/0059644).

Considering claims 1 and 19, Andrade discloses an interactive enabling system (100 in figure 1A) and method for managing interactive program and commercial content (paragraph 0038, lines 10-13), the system comprising: an interactive enabling device coupled for receiving a broadcast stream (paragraph 0020, lines 9-14), the broadcast stream containing interactive program triggers (paragraph 0038, lines 5-7) and interactive commercial triggers (paragraph 0028, lines 7-14) for retrieving the interactive program and commercial content (paragraph 0020, lines 10-14); and at least one interactive content server (303B in figure 3) coupled for communicating with an interactive control application in the interactive enabling device (paragraph 0039, lines 1-8); wherein the interactive enabling device executes the interactive control

application to manage the retrieval of the interactive program (paragraph 0020, lines 9-14) and commercial content (paragraph 0028, lines 7-14) from the at least one interactive content server in response to the interactive program and commercial triggers (paragraph 0038, lines 1-13).

As for claims 2 and 20, Andrade discloses the interactive control application including a gatekeeper function (paragraph 26, lines 1-13) for selectively retrieving interactive program (paragraph 0020, lines 9-14) and commercial content in response to recognized interactive program and commercial triggers (paragraph 0028, lines 7-14).

With regards to claims 3 and 21, Andrade discloses that the interactive enabling device retrieves the interactive program (paragraph 0020, lines 9-14) and commercial content (paragraph 0028, lines 7-14) from the at least one interactive content server through a communication link or assembled from information in the broadcast stream (paragraph 0038, lines 1-13).

Considering claims 9 and 27, Andrade discloses an interactive enabling system (100 in figure 1A) for managing interactive program and commercial content (paragraph 0038, lines 10-13), the system comprising: an interactive enabling device coupled for receiving a broadcast stream (paragraph 0020, lines 9-12) generated by a broadcast sponsor and for responding to interactive program and commercial pre-

triggers inserted into the broadcast stream for retrieving the interactive program and commercial content (a user can access advertised webpage in advance of when it's needed, which means pre-triggers are inherent—paragraph 0020, lines 9-14) in advance of when the content is needed; and at least one interactive content server (303B in figure 3) coupled through a communication link for communicating with an interactive control application in the interactive enabling device (paragraph 0039, lines 1-8); wherein the interactive enabling device executes the interactive control application to manage the retrieval of the interactive program (paragraph 0020, lines 9-14) and commercial content (paragraph 0028, lines 7-14) in response to the interactive program and commercial pre-triggers (paragraph 0038, lines 1-13).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrade (US 2002/0059644) in view of Park (US 6,460,180).

Regarding claims 4 and 22, Andrade discloses an interactive enabling system and method for managing interactive program and commercial content.

Andrade fails to disclose event and time-driven triggers embedded in the broadcast stream to avoid interference between the interactive program and commercial content.

In analogous art, Park discloses that the interactive enabling device is configured for receiving and responding to event and time-driven triggers embedded in the broadcast stream to ensure that the interactive program and commercial content does not extend beyond specified time limits, overlap, or otherwise interfere with each other (column 4, lines 31-37).

It would have been obvious to one of ordinary skill in the art to modify Andrade's system to include event and time-driven triggers embedded in the broadcast stream, as taught by Park, for the benefit of removing the interactive display if not selected by a user within a selected amount of time (column 4, lines 35-37).

7. Claims 5-7 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrade (US 2002/0059644) in view of Zigmond (US 6,698,020).

Considering claims 5 and 23, Andrade discloses an interactive enabling system and method for managing interactive program and commercial content.

Andrade fails to disclose an agreement between broadcasters and program or commercial sponsors for selecting and displaying interactive program and commercial content.

In analogous art, Zigmond discloses that the said gatekeeper is configured to recognize the interactive program and commercial triggers based on agreements between broadcasters and program or commercial sponsors (column 8, lines 55-64).

It would have been obvious to one of ordinary skill in the art to modify Andrade's system to include an agreement between broadcasters and program or commercial sponsors, as taught by Zigmond, for the benefit of having the ability to specifically target viewers (column 8, lines 58-60).

As for claims 6 and 24, Zigmond discloses that the gatekeeper is configured to recognize the interactive program and commercial triggers based on parameters embedded within the interactive program and commercial triggers (column 12, lines 15-32).

With regards to claims 7 and 25, Zigmond discloses that the gatekeeper is configured to recognize the interactive program and commercial triggers based on parameters maintained within the interactive enabling device (column 12, lines 15-32).

8. Claims 8 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable Andrade (US 2002/0059644) in view of over Gadkari (US 2002/0078443).

Regarding claims 8 and 26, Andrade discloses an interactive intelligent home entertainment system.

Andrade fails to disclose the interactive device including a random time-skewing for the retrieval of the interactive program and commercial content.

In analogous art, Gadkari discloses that the interactive enabling device includes a randomizer for randomly time-skewing the retrieval of the interactive program and commercial content in response to the interactive program and commercial triggers (paragraph 0055, lines 1-8).

It would have been obvious to one of ordinary skill in the art to modify Andrade's system to include a random time-skewing, as taught by Gadkari, for the benefit of postponing a television program or an advertisement to a later time.

9. Claims 10, 11, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable Andrade (US 2002/0059644) in view of Markel (US 6,791,579).

As for claim 10, Andrade discloses an interactive intelligent home entertainment system.

Andrade fails to disclose pre-triggers inserted into a broadcast stream based on estimates for communication link speed.

In analogous art, Markel discloses that the interactive enabling device is configured for receiving interactive program and commercial pre-triggers that were inserted into the broadcast stream by the broadcast sponsor at a specific time in advance of when the interactive program and commercial content is needed, based on estimates for communication link speed (column 6, lines 36-47).

It would have been obvious to one of ordinary skill in the art to modify Andrade's system to include insertion of pre-triggers based on communication link speed, as taught by Markel, for the benefit of understanding bandwidth constraints and determining the insertion rate.

With regards to claims 11 an 28, Markel discloses the interactive enabling device including a list of approved pre-triggers; wherein the interactive control application enables the retrieval of the interactive program and commercial content only if codes embedded in the interactive program and commercial pre-triggers match the codes in the list of approved pre-triggers (column 3, lines 52-57 and column 6, lines 44-47).

10. Claims 12 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable Andrade (US 2002/0059644) in view of Gadkari (US 2002/0078443).

Regarding claims 12 and 29, Andrade discloses an interactive intelligent home entertainment system.

Andrade fails to disclose the interactive device including a random time-skewing for the retrieval of the interactive program and commercial content.

In analogous art, Gadkari discloses that the interactive enabling device includes a randomizer for randomly time-skewing the retrieval of the interactive program and commercial content in response to the interactive program and commercial pre-triggers (paragraph 0055, lines 1-8).

It would have been obvious to one of ordinary skill in the art to modify Andrade's system to include a random time-skewing, as taught by Gadkari, for the benefit of postponing a television program or an advertisement to a later time.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harun M. Yimam whose telephone number is 571-272-7260. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-272-6000.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HMY



**HAITRAN**  
**PRIMARY EXAMINER**